

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
)	
)	
)	
v.)	Civil Action No.: 12-CV-462
)	
DAIRYLAND POWER COOPERATIVE,)	
)	
)	
Defendant.)	
)	
)	

SIERRA CLUB,)	
)	
Plaintiff)	
)	
)	
v.)	Civil Action No.: 10-CV-303-bbc
)	
DAIRYLAND POWER COOPERATIVE,)	
)	
)	
Defendant.)	
)	
)	

CERTIFICATION OF FACTS
IN SUPPORT OF CONDITIONAL TERMINATION OF ENFORCEMENT THROUGH
THIS CONSENT DECREE

Dairyland Power Cooperative ("DPC") provides this Certification of Facts in Support of Conditional Termination of Enforcement Through This Consent Decree ("Certification") entered in the above-styled case as follows:

1. The United States of America, Sierra Club, and DPC are parties to the Consent Decree entered by this Court on August 27, 2012 (collectively, the “Parties”), which was modified by an Order entered by the Court on April 28, 2014 (the “Modification”). The Consent Decree, as modified by the Modification, contains requirements concerning DPC’s

- a. Alma Generating Station (“Alma”), consisting of the following coal-fired boilers designated as Unit 1 (22 MW), Unit 2 (22 MW), Unit 3 (22 MW), Unit 4 (64 MW) and Unit 5 (88 MW) and related equipment, which is located in Buffalo County, Wisconsin. The Alma Generating Station Units were regulated by the Alma Site Title V operating permit.
- b. Genoa Generating Station (“G-3” or “Genoa”) consisting of one tangentially-fired boiler designated as Station #3 (396 Gross MW) and related equipment, which is located in Vernon County, Wisconsin. Genoa is regulated by the Genoa Site Title V operating permit.
- c. J.P. Madgett Generating Station (“J.P. Madgett” or “Madgett”) consisting of one dry-bottom wall-fired boiler (424 Gross MW) and related equipment, which is located in Buffalo County, Wisconsin. Madgett is regulated by the Alma Site Title V operating permit.

2. Paragraph 229 of the Consent Decree entitled “Conditional Termination of Enforcement Through this Consent Decree” states that DPC may file this Certification after DPC has met the following conditions identified in Paragraph 229:

- a. has successfully completed construction, and has maintained operation, of all pollution controls as required by this Consent Decree for a period of two years and has successfully completed all actions necessary to Retire any Unit required to be Retired as required by this Consent Decree; and

b. has obtained all the final permits and/or site-specific Wisconsin SIP revisions (i) as required by Section XVII (Permits) of this Consent Decree and (ii) that include as federally enforceable permit terms or Wisconsin SIP provisions, all Unit-specific, plant-specific, and system-specific performance, operational, maintenance, and control technology requirements established by this Consent Decree;

3. DPC has successfully completed construction, and has maintained operation, of all pollution controls required by this Consent Decree for a period of two years. Specifically, DPC has taken the following actions in satisfaction of the Consent Decree:

a. Pursuant to Paragraphs 70 and 73 of the Consent Decree, DPC has maintained the operation of the Low NO_x Combustion Systems at Madgett and G-3, respectively, for more than two years. The Low NO_x Combustion Systems at Madgett and G-3 were operating by the required compliance date of September 26, 2012, or within 30 Unit Operating Days after the Date of Entry of the Consent Decree and have maintained operation for more than two years.

b. Pursuant to Paragraph 71 of the Consent Decree, DPC installed and began operation of the Selective Catalytic Reduction System ("SCR") at Madgett prior to the required compliance date of June 30, 2016. DPC has maintained operation of the SCR for more than two years.

c. Pursuant to Paragraph 97 of the Consent Decree, DPC began operation of Dry Sorbent Injection ("DSI") at Madgett prior to the required compliance date of December 31, 2014. DPC has maintained operation of DSI for more than two years.

d. Pursuant to Paragraph 98 of the Consent Decree, DPC began operation of the Flue Gas Desulfurization System ("FGD") at G-3 prior to the required compliance date of February 27, 2013, or within six months after the Date of Entry of the Consent Decree. DPC has maintained operation of the FGD for more than two years.

e. Pursuant to Paragraphs 114-116 of the Consent Decree, DPC has maintained operation of the Baghouses at G-3 and Madgett, respectively, since prior to the required compliance date of September 26, 2012, or within 30 Unit Operating Days from the Date of Entry of the Consent Decree. DPC has maintained operation of the Baghouses for more than two years.

f. Pursuant to Paragraph 77 of the Consent Decree, DPC began operation of the Selective Non-Catalytic Reduction System ("SNCR") at G-3 prior to the required compliance date of June 1, 2015. DPC has maintained operation of the SNCR for more than two years.

g. With respect to Alma Units 4 and 5, although DPC timely began operation of the Low NOx Combustion Systems and SNCRs pursuant to Paragraphs 79-80 of the Consent Decree and maintained operation for more than two years, Alma Units 4 and Unit 5 have Ceased Burning Coal pursuant to the Modification.

4. DPC has successfully completed all actions necessary to Retire any Unit as required by this Consent Decree. Specifically, DPC, pursuant to Paragraph 65 of the Consent Decree, applied to remove Alma Units 1, 2, and 3 from all applicable permits and Wisconsin's air emission inventory prior to June 30, 2012. DPC, pursuant to Paragraph 66 of the Consent Decree, applied to remove Alma Unit 4 and Alma Unit 5 from all applicable permits and Wisconsin's air emission inventory prior to December 31, 2014.

4. Pursuant to Paragraphs 192 and 193 of the Consent Decree, DPC has obtained all final permits required by Section XVII (Permits) of the Consent Decree for G-3 and Madgett that include as federally enforceable permit terms, all of the Unit and Plant performance and other requirements specified in the Consent Decree. Specifically, DPC has obtained the following final permits in satisfaction of the Consent Decree:

a. Pursuant to Paragraph 192 of the Consent Decree, DPC timely applied for amendments to the Madgett and G-3 Title V permits on February 21, 2013, to include a schedule for all Unit-specific, plant-specific, and system-specific performance, operational, maintenance, and control technology requirements established by this Consent Decree including, but not limited to, any 12-Month Rolling Average Emission Rate, 30-Day Rolling Average NO_x Emission Rate, 30-Day Rolling Average SO₂ Emission Rate, Plant-Wide Annual Tonnage Cap, System-Wide Annual NO_x Tonnage Limitation, System-Wide Annual SO₂ Tonnage Limitation, Unit-Specific Annual Tonnage Cap, the requirements pertaining to the Surrender of SO₂ and NO_x Allowances, and the Retirement of any Unit as required under the Decree. The Wisconsin Department of Resources (“WDNR”) issued the final Air Pollution Control Operation Permit Revision (Permit No. 606034110-P30) on January 7, 2016 for the Alma Site and the final Air Pollution Control Operation Permit Revision (Permit No. 663020930-P30) on May 26, 2015 for the Genoa Site.

b. Pursuant to Paragraph 193 of the Consent Decree, DPC timely applied for a site-specific revision to the Wisconsin SIP to include the requirements and limitations enumerated in the Consent Decree within one year from the Date of Entry of the Consent Decree for G-3 and Madgett. On December 1, 2014 and April 15, 2015, DPC applied to permanently include the requirements and limitations enumerated in the Consent Decree into a federally enforceable non-Title V permit for G-3 and Madgett, respectively. The Wisconsin SIP revision request and the permit applications sought a modification to require compliance with the following: 12-Month Rolling Average Emission Rate, 30-Day Rolling Average NO_x Emission Rate, 30-Day Rolling Average SO₂ Emission Rate, Plant-Wide Annual Tonnage Cap, System-Wide Annual NO_x Tonnage Limitation, System-Wide Annual SO₂ Tonnage Limitation, Unit-

Specific Annual Tonnage Cap, the requirement pertaining to the Surrender of SO₂ and NO_x Allowances, and the Ceasing of Burning Coal at any Unit as required under the Decree. The WDNR issued the final Air Pollution Control Construction Permit Revision (Permit No. 03-POY-034-R1) on January 7, 2016 for Alma Site and the final Air Pollution Control Construction Permit Revision (Permit No. 13-SMS-138-R1) on May 26, 2015 for Genoa Site.

DPC has shared this Certification with the United States and the Sierra Club. While Paragraph 229 prescribes a forty-five day period for written objections, counsel for the United States and Sierra Club have represented that neither the United States nor Sierra Club anticipate making any objections to the Certification. Therefore, pursuant to the terms of Paragraph 229 and subject to the provisions of Paragraph 230, for any violations of the Consent Decree that occur after the filing of this Certification, the United States and Sierra Club shall pursue enforcement of the requirements through the applicable permits and/or other enforcement authorities and not through the Consent Decree. No further order is needed from this Court.

Dated: January 28, 2020

Respectfully submitted,

FOR DEFENDANT
DAIRYLAND POWER COOPERATIVE:



Barbara A. Nick, President and CEO

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2020, the foregoing Certification of Facts in Support of Conditional Termination of the Consent Decree was filed electronically using the Court's ECF system and automatically served through the Court's ECF system on counsel of record.


Elizabeth C. Williamson